

LEG. FINANCE - BILLS

1977 - 1978

696

CSCSHB 264 cont.

696

1 at the option of the holders of them, not later than the respective  
2 dates when the proceeds, together with the interest accruing on them,  
3 will be required for the purposes intended.

4 Sec. 16.10.690. CREDIT OF STATE NOT PLEDGED. Obligations issued  
5 under the provisions of secs. 600 - 690 of this chapter do not consti-  
6 tute a debt, liability or obligation of the state or of any other  
7 political subdivision of the state or a pledge of the faith and credit  
8 of the state or a political subdivision of the state but are payable  
9 solely from the revenues or assets of the authority. Each obligation  
10 issued under secs. 600 - 690 of this chapter shall contain on its face a  
11 statement that the authority is not obligated to pay it nor the interest  
12 on it except from the revenues or assets pledged for it and that neither  
13 the faith and credit nor the taxing power of the state or of a political  
14 subdivision of the state is pledged to the payment of the principal of  
15 or interest on the obligation.

16 \* Sec. 18. This Act takes effect immediately in accordance with AS 01.10.-  
17 070(c).

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May 17, 1977

MEMO

To: Senator John Sackett

From: Terry Gardiner T. G.

Re: HB 264- Non-profit hatcheries

Enclosed are some amendments that I would propose to HB 264, which have been requested by the Department of Revenue and the Administration. The first amendment on page 6, line 9, would allow the commissioner the ability to suspend an assessment of the regional corporation when he found that it was no longer necessary. The department felt that this was necessary in case a regional association was being arbitrary and capricious in continuing assessment when the fishermen of the area no longer desired it.

The remaining amendments on pages 7-10 delete the bonding ability of the salmon enhancement authorities. It was felt that this bonding authority could possible effect the bonding capabilities and ratings of the State of Alaska. Although, after checking with bond councils, I do not agree with this, I have agreed to delete this material from the HB 264. I do this for two reasons: one- it bothers the Department of Revenue; and two- the bonding ability is not essential for the regional non-profit hatchery association at this time.

A M E N D M E N T

Offered in the HOUSE

By Gardiner

TO: SCS CSHB 264 (Resources)

Page 6, line 9:

After the word "met" insert the following material:

"or by the commissioner upon a finding that the assessment  
is no longer required for corporate purposes"

Page 7, line 24:

Delete "690" and insert "630"

Page 8, lines 12 - 20:

Delete all material

Page 8, line 21:

Delete "(c)" and insert "(b)"

Page 9, line 3:

Delete "bonds,"

Page 9, line 5:

Delete "bonds and of other"

Page 9, lines 8 - 11:

Delete all material and renumber following paragraphs

Page 10, line 2 through page 16, line 27:

Delete all materia!

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THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 264 (Finance)  
 Title An Act Relating to Fisheries Enhancement  
 Requested by House Finance Committee Date April 5, 1977

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development  
 Program Category Affected Development  
 Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	900.0	900.0				
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	900.0	900.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 77: Grants in the amount of \$900,000 shall cover six regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim, and Prince William Sound. \$900,000 allows \$100,000 per region attempting to organize and to Prince William Sound (6 regions x \$100.0 = \$600.0) and a second matching-assessment grant for three regions (3 regions x \$100.0 = \$300.0).

FY 78: Calculated as above, anticipating that an additional six regions will organize.

IV. DATE 4/5/77

PREPARED BY Alison Farnan for House Finance Comm.  
 AGENCY Fiscal Analyst, Legislative Finance  
 PHONE 465-3795

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

REVISED FISCAL NOTE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CSIB 264  
Title An Act Relating to Fisheries Enhancement  
Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development  
Program Category Affected Development  
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	<del>750.0</del>	<del>750.0</del>	0	0	0	0
GRANTS	900.0	900.0				
TOTAL						

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	900.0	900.0				
FEDERAL FUNDS	<del>750.0</del>	<del>750.0</del>	0	0	0	0
OTHER (Specify)						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY/77 - At this time it appears that 5 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or letter of Intent.

FY/78 - It is expected that an additional 5 regions will organize.

LEGISLATIVE REVISION TO FISCAL NOTE:

FY 77: Grants in the amount of \$900.0 shall cover six (not five) regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim (added by the legislature) and Prince William Sound. The \$900.0 allows \$100.0 per region once organized (6 x \$100.0 = \$600.0) and grants in the amount of \$100.0 to match assessments per region (estimated that three regions will qualify for the second grant, 3/x \$100.0 = \$300.0) for a total of \$900.0 for FY 77.

FY 78 Calculated as for FY 77.

IV. DATE: 3/11/77 PREPARED BY Pete Joann  
AGENCY Division of Business Loans  
PHONE 465-2518

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor: (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CS# 264  
 Title An Act Relating to Fisheries Enhancement  
 Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development  
 Program Category Affected Development  
 Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	<del>750.0</del> 1000	750.0	0	0	0	0
TOTAL						

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND	<del>750.0</del> 1000	750.0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY/77 - At this time it appears that 6 regions will be attempting to organize as soon as funding is available. These include Kotzebue, Sibley, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is ~~already organized~~, will qualify for grant funds should be answered by legislation or letter of intent.

FY/78 - It is expected that an additional 5 regions will organize.

*FN cost in 1977  
1000*

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7/25/77  
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*and has been  
Assoc. of  
Village  
Council  
has been  
...*

*Pete Joann*

IV. DATE 3/11/77 PREPARED BY Pete Joann  
 AGENCY Division of Business Loans  
 Original: Legislative Finance PHONE 465-2510  
 cc: Budget and Management  
 Prime Sponsor (Print Legislator Name)

# HOUSE JOURNAL

## HOUSE FINANCE COMMITTEE REPORT ON CSHB 264 (FINANCE)

The revised fiscal note for CSHB 264 (Finance) provides funding as follows:

- FY 77: \$900,000 in grant funds for the following regions: Ketchikan, Sitka, Bristol Bay, Cook Inlet, Yukon-Kuskokwim and Prince William Sound. The grant amount provides \$100,000 to each region attempting to organize and to Prince William Sound (already organized). A matching assessment grant of \$100,000 will be made to organized regional associations. It is estimated that three regional associations will qualify for this second grant.
- FY 78: \$900,000 in grant funds to provide for six additional regions attempting to organize and three of which might qualify for the matching grant.

Respectfully submitted,

---

Steve Cowper, Chairman  
House Finance Committee

PRIVATE SECTOR

SALMON ENHANCEMENT AND REHABILITATION IN ALASKA  
J.N. Milnes SSRAA

THE PROBLEM:

The annual harvest of salmon in Alaska has been steadily declining since 1936 and is in a severe state of depression in this decade. The following chart illustrates those facts:

ALASKA SALMON HARVEST  
(in thousands of fish)

	30 year consecutive high (average Harvest)	1960-1975 (average harvest)	1973-1975 (average harvest)
SOUTHEASTERN	38,200	14,862	8,118
PRINCE WILLIAM SOUND	8,000	4,575	3,509
COOK INLET	4,100	3,422	2,423
KODIAK	10,700	7,513	2,339
CHIGNIK	9,900	4,483	1,679
BRISTOL BAY	15,700	9,067	3,304
ARCTIC-YUKON KUSKOKWIM	800	845	2,309
STATEWIDE	<u>83,300</u>	<u>45,108</u>	<u>23,111</u>

Source: Alaska Department of Fish and Game  
American Fisheries Institute Speech  
Cordova, March, 1976

This is very comparable to a forest which has been harvested but not replanted or permitted to reforest itself. The salmon as a renewable resource simply has not been renewed.

The decimation of the resource has resulted in the decimation of the salmon industry so that it no longer has the capital to rebuild itself. Nor does the industry have the cohesion to create industry organizations whose role it would be to rebuild the salmon runs.

Technology exists to correct this problem. It has to be tried in Alaska and corrected to fit the Alaskan biology.

Hatchery technology has been well established in the Northwest for many years in Oregon, Washington, and British Columbia. Those states have embarked upon programs of immense investments to further utilize the salmon resource. Oregon has granted the right to private-profit based hatcheries, the most major effort being made by the Weyerhaeuser Corporation, who intends to release 25,000,000 Coho smolt by 1978 and ultimately \$5,000,000. Washington state has planned several hundred million dollars for salmon enhancement, as has British Columbia.

Overseas, Japanese hatcheries are releasing 1,000,000,000 fry annually and intend to increase that to 1,500,000,000 by 1985. Russia has a similar program.

Alaska's current production of hatchery salmon is miniscule by comparison.

Besides a reliance upon hatchery production, Alaska also has a tremendously cheap resource in its abundant streams which once provided the rich harvests of 30 years ago. However, fishery resource management techniques have lacked the precision to adequately control the decline of the salmon run.

Stream rehabilitation and significant improvement in management also offer a high leverage correction to this loss.

#### THE APPROACH TO A SOLUTION

The people of Alaska consider this subject vital to their well-being and to the well-being of the future of the state. It is a renewable resource currently employing thousands of fishermen and consequently supporting tens of thousands of individuals. Furthermore, it can be increased in its capacity to support a stable population and the supply chain which feeds it.

As a renewable resource, it is one of the prize possessions of the state of Alaska.

One strategy of "fixing" the current loss of resource is for the state of Alaska to have its government department build and run hatcheries and do the whole job of rebuilding the salmon runs.

A second strategy might be for the private sector to take over the job.

Since this entire effort is in its infancy in Alaska, such a dichotomy is not practical. Alaska must use all the available capabilities it has on hand.

Ultimately, it would be desirable for the private sector to perform this function, as it does in agriculture, and in forestry. For it to do so, there unfortunately must be government intervention to provide the funds and the technology to develop the capability of that sector. Once in place, however, the private sector would be paying its own way by developing revenues and capital to cover the costs of the public administration (A.D.F.&G.), improved research and development, and the operation of the rehabilitation and enhancement programs directly.

An objective which might be suggested for this effort is:

To create a healthy industry; one which is profitable, and supporting a large stable population in the year 2000 - providing pleasure in sports fishing, capital to aid fisheries, and monies to pay its own way.

The means to achieving that require:

- sound financing
- good organization of experienced personnel
- well developed base of experience
- salmon marketed at a price adequate to deliver profit to the people and enterprises in the industry.

The tack to take at this moment is one of getting into a safe level of production as fast as possible to obtain the best base of experience as quickly as possible. With a project of this scale, experience is the vital factor. It reduces costs, it increases productivity, it opens the door to new solutions and will accelerate the program with safety.

However, "scared money" in a situation having so many new factors and variables in itself creates problems. So, the funding source, currently the legislature, must make itself aware of the risks inherent in

- forming new social groups called "Regional Associations"
- operating hatcheries with no prior cost experience
- rebuilding brood stocks to levels adequate to start a major enhancement facility
- managing mixed stock fisheries so that native runs are not damaged.

it is  
In private enterprise, the role of "venture Capital" to fund the high risk start-up from its inception through its likely commercial success. The capital covers all costs associated with the venture - engineering and construction, staff, raw materials, equipment, operations and maintenance - including interest on short term debt.

Since venture capital is not available in Alaska,... because of the NONPROFIT nature of the current legislation, the loan program provides a means to get started and assures that the state of Alaska has its money returned.

This implies that the loans must serve the same purpose as venture capital; i.e. assure that there is adequate monies available to assure a high probability of success.

Creating self-help financing is not new to government. The U.S. government intervened prior to and during the Depression in agriculture financing by forming and initially funding the Farm Credit System; the P.C.A.; the Federal Land Banks, and the Bank for Co-ops.

The following typical kinds of costs associated with operating a regional association and a hatchery facility illustrate the need for completeness in the financing arrangements.

#### POSSIBLE SCENARIO FOR SOUTHEAST ALASKA

Using the chart on page 1, a likely goal for Southeast Alaska would be to return the salmon to the previous levels of 38, 000,000 from the current 8,000,000. A gain of 30,000,000 returning salmon would be required.

Assume half of that could come from rebuilding the native run using management techniques and that the other half of 15,000,000 would be obtained from hatchery production.

Let's also assume that those 15,000,000 salmon were chum salmon.

At current prices of \$6.00 per adult chum salmon, the increased value for 30,000,000 adults would be \$180,000,000. Everybody hopes the price will hold or inflate in time.

Currently, a hatchery to produce 1,000,000 returning adult chum salmon would cost approximately \$2,000,000 to construct and about \$300,000 annually to operate. If all the brood stock were available at the time of start-up (which is a remote possibility), it would take 3 to 5 years for that initial 1,000,000 to return. More realistically, it would take 8 to 10 years.

Approximately 20% of the salmon might escape the commercial fishery and return to the hatchery, ... 200,000 salmon. 55,000 of those would be needed for spawning the next year's production; leaving approximately 155,000 surplus fish to be sold by the hatchery to cover the cost of operations and repayment of the debt. Those 155,000 chum salmon at \$6.00 each would be worth \$900,000.

Since each hatchery produces 1,000,000 adult salmon returning to the fishery, it would take 15 hatcheries to meet the production targets. Each hatchery would need the \$2,000,000 for construction and 5 x \$300,000 per year for a total of \$3,500,000 to start up and to reach break-even. 15 of these facilities would require \$57,000,000 in total capitalization to achieve the goal.

If 4 facilities of this magnitude were installed in Southeast, their combined surpluses would generate \$2,400,000 annually in capital... each facility contributing \$600,000 to the capital pool. These 4 facilities, once they reach their full capacity, would become an economic generator which would supply the capital for the rest of the region to expand.

So, for an investment of \$15,200,000, the State of Alaska levers its money to a total of \$57,000,000 worth of capital, ultimately producing \$180,000,000 in additional sales.

15 facilities would employ maybe 75 - 100 people directly and the harvest of 30,000,000 adults would employ at least several thousand fishermen.

The fishermen of the area would have assessed themselves for nearly 8 years at 3% of their gross salmon catch, contributing nearly \$1,000,000 per year. However, the overhead of running a region of that magnitude

- the administration, accounting and legal costs
- the site development costs
- the stream rehabilitation costs

could possibly use half to three-fourths of that assessment, leaving little surplus for the repayment of debt or to cover the operating costs of the facilities.

TABLE 2

Estimated Comparative Public Costs  
for a 25-Million Egg Pink Salmon Hatchery  
(Millions of \$)

Part A: Computation of Subsidies to Private Nonprofit Hatchery

Construction and construction-period administration costs	\$ 2.30
Hatchery-firm development costs	<u>.20</u>
Total costs of first hatchery	<u>\$ 2.50</u>
Financed by:	
Development grant	\$ .20
Assessment income	.40
State loan	<u>1.90</u>
Total	<u>\$2.50</u>
Public Costs of Private Hatchery in Discounted Present Value	<u>\$1.04</u>
Development grant	\$ .200
Interest forgiveness on loan @ 8%, years 1-6 <sup>1</sup>	.703
Implicit cost of interest differential <sup>2</sup>	<u>.135</u>
	<u>\$1.038</u>

Note: Assessment income to hatchery and sales revenue from sale of surplus salmon will be required to pay debt service and annual operating costs.

Part B: Computation of Subsidies to State Hatchery

Present value of construction and construction-period administration costs	\$ 2.50
Present value of hatchery development costs	<u>.20</u>
Present value of total construction and development costs of hatchery	2.50
Present value of operating costs for 20 years @ \$200,000 per year	<u>1.69</u>
Present value of total public costs of state hatchery	<u>\$ 4.19</u>
Public savings resulting from private hatchery (\$4.19-\$1.04)	\$ 3.15

<sup>1</sup>See Table 3

<sup>2</sup>See Table 4

## MORE HATCHERIES ADVOCATED

# Concern for salmon is international affair

Canada is not alone in concern for the future of declining salmon stocks, nor in a desire to enhance them, according to Dr. Kees Groot of the Pacific Biological Station in Nanaimo. A recent review by Dr. Groot in connection with planning for the Canadian Salmonid Enhancement Program showed that virtually every region having Pacific salmon runs, from Washington and Oregon States to the USSR, was involved in efforts to increase the number of fish available for harvest.

Washington, Oregon and Alaska have each responded to depletion of fish stocks in a slightly different way. Washington State has an extensive system of hatcheries, spawning and rearing channels, holding ponds, and pen-rearing projects. In addition, the State Department of Fisheries keeps streams clear of obstructions and maintains fish ladders, fishways and other fish passage structures.

A concerted effort to significantly increase the commercial harvest of chum, pink and coho salmon in Puget Sound was announced in 1975. As part of that effort an attempt will be made to develop hatchery produced stocks of chum salmon that can be fished separately from wild stocks, and it is also hoped that the timing of the return of hatchery coho can be adjusted for the same purpose. The heavy harvest possible on hatchery fish could wipe out wild stocks migrating at the same time in the same waters.

### Serious Losses

Oregon also relies heavily on hatcheries, and has a salmon culture program recognized to be one of the best in the USA. However, the goal of Oregon's ten-year enhancement program, begun in 1968, is to establish natural, self-sustaining spawning runs of coho and chinook salmon and steelhead trout in the Willamette River system. Massive stockings of fall spawning chinook were initiated in 1970, for example, to try to attain a self-sustaining wild population using

waters above the then-new Willamette Falls fishway.

Oregon experienced serious losses of salmon and steelhead stocks on the Columbia River early in the 1970's as a result of problems associated with high dams: high nitrogen levels: passage of juvenile fish through turbines, and the use of slotted bulkheads — the latter ironically intended to reduce nitrogen levels and protect fish. On the Willamette system, however, the combination of improved fish passage at Willamette Falls, pollution abatement in Portland Harbour, and increased plantings of smolts, is reported to have increased runs of coho, fall chinook and summer steelhead.

### Anticipated Investment

In Alaska a Division of Fisheries Rehabilitation, Enhancement, and Development (FRED) was set up in 1971 in reaction to a dramatic decline in the annual salmon harvest, from 100 million fish in the 1930's to record low catches of less than 25 million in recent years. Five years of groundwork by the FRED division resulted in a \$500 million plan.

The aim is strikingly similar to the objective of Canada's Salmonid Enhancement Program, though it might be said to be twice as ambitious. Canada hopes to restore salmon harvests to their historic high, and so does Alaska, but in Canada this means doubling current annual harvests, while in Alaska the catch will have to be quadrupled. Both Alaska and Canada have set their targets 15 years ahead.

Alaska's anticipated state investment is \$300 million, coincidentally the same amount Canadian Pacific Coast fisheries managers expect will be made available to them by the Federal government. There the immediate similarities end.

Canada is carefully examining the potentials for enhancement, while Alaska has already decided that the bulk of the state's \$300 million would go for state-run hatcheries, and an additional \$200 million loan fund would be made available to finance a coordinated network of privately operated non-profit hatcheries. Balance of the state money would be

*please turn to page 20*

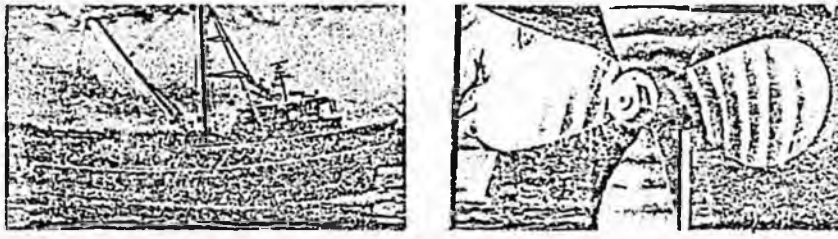
## Canned salmon pack to November 13

		Current Season Nov. 13, 1976 Cases (48 lbs.)	Comparison with previous years				
			Nov. 15, 1975 Cases (48 lbs.)	Nov. 16, 1974 Cases (48 lbs.)	Nov. 10, 1973 Cases (48 lbs.)	Nov. 11, 1972 Cases (48 lbs.)	Nov. 13, 1971 Cases (48 lbs.)
SOCKEYE	TOTAL — Final	—	164,055	709,180	642,601	312,907	568,756
	— To date	379,419	164,055	707,592	639,011	311,851	568,756
SPRING	TOTAL — Final	—	13,952	20,279	11,258	11,608	11,653
	— To date	10,945	13,952	19,151	10,036	11,530	11,653
STEELHEAD	TOTAL — Final	—	597	1,546	939	867	1,301
	— To date	151	597	1,546	971	867	1,301
BLUEBACK	TOTAL — Final	—	395	2,726	705	—	5,609
	— To date	—	395	2,726	705	—	5,609
COHO	TOTAL — Final	—	60,686	157,325	115,492	83,755	215,855
	— To date	81,542	60,686	156,802	110,337	83,224	215,855
PINK	TOTAL — Final	—	240,592	307,192	355,695	485,164	502,324
	— To date	485,261	240,592	306,862	353,373	483,699	502,324
CHUM	TOTAL — Final	—	37,093	230,634	423,353	278,451	98,509
	— To date	84,399	37,093	228,610	395,051	270,667	98,509
TOTAL ALL SPECIES	— Final	1,041,717	517,370	1,423,289	1,509,494	1,161,837	1,404,005
	— To date	—	517,370	1,428,882	1,550,113	1,172,752	1,404,005

# J. & J. Propeller Ltd.

338 East Esplanade, North Vancouver, B.C.  
Phone 985-2413

Propeller Repairs & Manufacturing  
in Bronze - Steel and Stainless Steel



## 55

# CHANNEL

## FM

If you've heard of problems with an early 55 channel radiotelephone, you'll understand why we've waited until now to introduce our 55 channel model. Frankly, our reputation for quality and reliability was too important to risk by offering equipment that didn't measure up to our high technical standards.

NEXT MARCH our FMX-55 will be available and we'd like to put you on our list. The Spilsbury FMX-55 is an all new design first quality product with a one year warranty that's backed by our Vancouver factory service facilities.

## CAN'T WAIT FOR MARCH?

Order our 12 channel, performance-proven Spilsbury FMX 12/25. You'll like its many unique features plus the special off-season discount good now through January 15th, 1977 only. Ask about our group discounts, also in effect through January 15th, 1977 starting with just two sets. Later, if you want to move up from a Spilsbury FMX 12/25 to our FMX-55 Channel we'll give you a generous trade in allowance. You can't lose.

Still undecided? Talk to us about our attractive rental rates.



## SPILSBURY COMMUNICATION SYSTEMS

A DIVISION OF SPILSBURY & TINDALL LTD.

120 East Cordova Street, Vancouver, B.C. 684-4131

## Concern

*continued from page 10*

spent for rehabilitation of damaged spawning streams and increased research to improve management of natural stocks. By shifting commercial fishing effort to hatchery produced fish the Alaskans hope that it will be possible to be able to rebuild natural spawning systems without extensive fishing closures.

### Hatchery Program

The idea of privately operated hatcheries adopted by Alaska might have originated in Japan, where hatchery operations date back 100 years. Hatcheries are the main enhancement technique for salmon in Japan. In 1976 there were 41 federal government hatcheries, three to five state hatcheries, and up to fifty hatcheries operated by fishermen's associations.

Only 10 per cent of the chum salmon entering Hokkaido's rivers spawn naturally ninety per cent of the fish are artificially spawned for hatchery production. An annual investment of around \$3.3 million in hatchery operations results in a landed catch valued at \$164 million. The Japanese, concentrating on production of chum salmon, plan new hatcheries.

The USSR also has a substantial hatchery program, on Sakhalin Island, on the Kurile Islands, and along the Amur River. By the 1960's, USSR pink salmon catches had dropped to 22 - 33 per cent of their former levels, ostensibly as the result of heavy ocean fishing. The Soviets responded with the largest hatchery system for pink salmon on the North Pacific, and also propagate chum salmon artificially. Strength of Sakhalin salmon runs is said now to be superior to that of runs in adjacent areas lacking hatchery production.

Success with hatcheries could have some drawbacks, however. Dr. W. McNeil of the US National Marine Fisheries Service has cautioned Alaskans that introduction of massive numbers of hatchery-bred fish could lead to decimation of wild stocks. He points out that hatchery produced salmon could stand 95 per cent exploitation, which would be disastrous to wild runs; that disease could spread from hatchery to wild stocks and that interbreeding could alter the salmon's all-important homing instinct.

Canada has experience with hatcheries, as well as a number of other enhancement measures, including artificial spawning channels, incubation boxes, stream flow control, and rear-

ing ponds, but unlike some of our neighbours, we are not likely to rely exclusively on any single technique or group of related techniques, according to J. R. McLeod, Pacific Coast Director of the Salmonid Enhancement Program. Instead the careful planning now in progress will examine and assess all the known scientific possibilities, as well as exploring new untried techniques. It should be noted at this time that Canada is one of the leading authorities on Salmonid Enhancement. It will be important to the longterm future of the fish populations of the west coast that Canada maintain its esteemed position. In other words, it is important that continues to push forward in the areas of research and operational capabilities to ensure that the fish stocks of our country are being managed at the uppermost level of human capability.

Salmonid Enhancement should provide a further opportunity for improvement not only in management strategies but also basic knowledge and understanding of the fish themselves. In addition, SEP planners are looking beyond biological and physical feasibility to take into account the broad social and economic implications of salmonid enhancement measures. In that connection the active participation of the public in the planning process is being invited through an organized public involvement program.

### Freezing time reduced by latest method

Nippon Suisan company and Toyo Engineering Works have jointly developed a freezing system which uses propylene glycol (PG) instead of ammonia and reduces freezing time by 60 per cent. Fish are immersed in liquid PG or the liquid is sprayed on the fish. This lowers their temperature quickly to  $-4^{\circ}$  Celsius or lower.

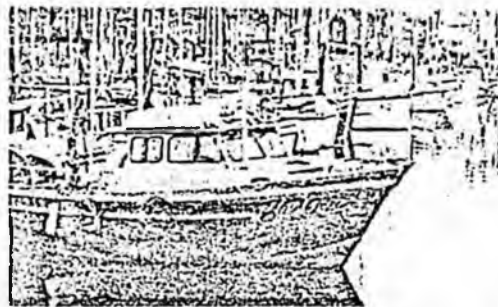
The PG freezing systems is on vessels operating in the Bering Sea and in the Pacific off New Zealand, Nippon Suisan will use PG freezing in a \$2 million freezing plant to be built at Hachinohe, in northern Honshu, in 1976.

(Japan Economic Journal, Dec. 28, 1975)



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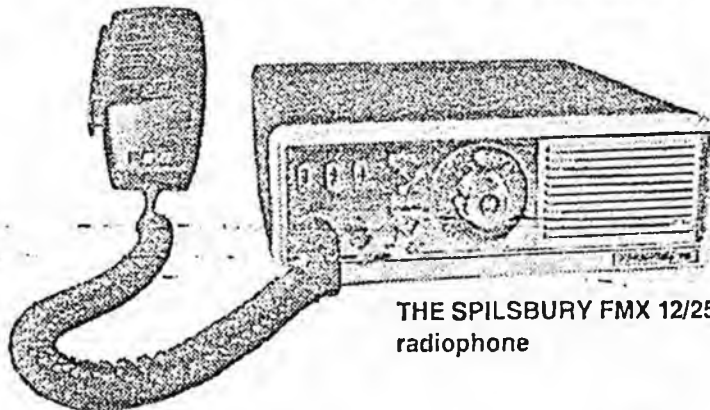
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91st CONGRESS  
2d SESSION

# H. R. 14695

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 1976.

Mr. LEGGETT (for himself, Mrs. SULLIVAN, Mr. FORSYTHE, Mr. BREUX, Mr. MOSHER, Mr. MURPHY of New York, Mr. EMERY, Mr. YOUNG of Alaska, Mr. DE LA GARZA, Mr. DE LUCCO, Mr. OBERSTAR, Mr. ANDERSON of California, Mr. LENT, Mr. GINN, Mr. McCOIN, Mr. ROGERS, Mr. RINALDO, Mr. DU PONT, Mr. STUDDS, Mr. DOWNING of Virginia, Mr. BONKER, Mr. BIACCI, and Mr. PRETCHARD) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

## A BILL

To provide for the development of aquaculture in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "National Aquaculture"  
4 Organic Act of 1976".

### SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

6 (a) The Congress finds that—  
7 (1) the world production of seafood has declined  
8 since 1970 and that the harvest of some populations of

1 fish and shellfish have exceeded levels of maximum sus-  
2 tainable yield;

3 (2) certain stocks of fish and shellfish of importance  
4 to the United States are depleted, or are declining, and  
5 such depletion or decline has an undesirable impact on  
6 both commercial and recreational fisheries;

7 (3) there is an extensive market for seafood in  
8 the United States, but the United States imports 50  
9 percent of its fish and shellfish for human consumption  
10 (which imports are ten times the level of exports), and  
11 this dependence on imports as a source of protein makes  
12 it difficult to insure continuous supplies and suggests  
13 that alternatives such as aquaculture be developed;

14 (4) aquaculture is contributing significantly to the  
15 economies of many countries; for example, Japan and  
16 Czechoslovakia rely on aquaculture for over 10 percent  
17 of their total fisheries production, whereas less than 3  
18 percent of the United States fisheries production results  
19 from aquaculture;

20 (5) the stocking of advanced life stages of fish  
21 and shellfish produced by aquaculture is a means of re-  
22 building and augmenting fish and shellfish populations  
23 and establishing new fisheries;

24 (6) the application of aquaculture technology offers  
25 opportunities for the recovery of wasted thermal energy,

1. . . . nutrients, and other resources, and may be a more effi-  
 2. . . . cient use of energy for food production than current  
 3. . . . methods of agriculture;  
 4. . . . (7) lands and waters, whether fresh, brackish, or  
 5. . . . marine, which are suitable for aquaculture are diminish-  
 6. . . . ing, and those which are so suitable are underutilized;  
 7. . . . (8) current efforts to develop aquaculture in the  
 8. . . . United States are highly diffuse, and a strong commit-  
 9. . . . ment by the Federal Government could make aquacul-  
 10. . . . ture more efficient and competitive, thereby stimulating  
 11. . . . public and private investment and development; and  
 12. . . . (9) while some scientific and technological prob-  
 13. . . . lems are unsolved, there is sufficient knowledge to fur-  
 14. . . . ther the development of aquaculture production systems  
 15. . . . for many species of fish and shellfish.

16. . . . (b) The purposes of this Act are to promote commer-  
 17. . . . cial aquaculture in the United States by establishing and  
 18. . . . implementing a national plan for aquaculture in order to de-  
 19. . . . velop programs and to encourage activities which will result  
 20. . . . in the coordination of domestic aquaculture efforts, the con-  
 21. . . . servation and increased availability of fisheries resources, the  
 22. . . . creation of new industries and job opportunities, and other  
 23. . . . national benefits.

24. SEC. 3. DEFINITIONS.

25. As used in this Act—

(1) The term "appropriate Secretary" means the Secretary of Commerce or the Secretary of the Interior as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970.

(2) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments.

(3) The term "aquaculture facility" means any land, structure, or other appurtenance used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(4) The term "aquatic species" means any species of finfish, mollusk or crustacean (or other invertebrate), amphibian, reptile, or aquatic plant, but does not mean any species of finfish or aquatic plant primarily used for ornamental purposes.

(5) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 10.

(6) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, or other entity organized or existing under the laws of any State.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of

1 Puerto Rico, American Samoa, the Virgin Islands,  
2 Guam, and any other Commonwealth, territory, or  
3 possession of the United States.

4 (8) The term "United States", when used in a  
5 geographical context, means all States.

6 SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

7 (a) (1) Before the close of the 1-year period be-  
8 ginning on the date of the enactment of this Act, the Sec-  
9 retary of Commerce shall by regulation establish a National  
10 Aquaculture Development Plan (hereinafter in this Act  
11 referred to as the "plan"). The Secretary shall give inter-  
12 ested persons an opportunity to participate in the rulemaking  
13 (with opportunity for oral presentation) with respect to the  
14 plan in such areas of the United States as he deems appro-  
15 priate.

16 (2) (A) After consultation with the Secretary of the  
17 Interior, the Secretary of Commerce shall establish, and  
18 appoint members of such advisory committees as he deems  
19 appropriate to assist in the initial development of the plan.  
20 Persons appointed to such committees shall be knowledg-  
21 e-able or experienced in the principles or practices of aqua-  
22 culture.

23 (B) While away from their homes or regular places of  
24 business in the performance of services on any advisory  
25 committee established pursuant to paragraph (2) (A),

1 members of the committee shall be allowed travel expenses,  
 2 including per diem in lieu of subsistence, in the same manner  
 3 as persons employed intermittently in the Government serv-  
 4 vice are allowed expenses under section 5703 (b) of title 5  
 5 of the United States Code.

6 (b) The plan shall—

7 (1) identify each aquatic species (hereafter re-  
 8 ferred to in this Act as "priority aquatic species") which  
 9 the appropriate Secretary determines can be cultured  
 10 on a commercial basis, after taking into account—

11 (A) the extent of commercial aquaculture, if  
 12 any, currently being carried out with respect to such  
 13 species, and the projected economic feasibility of  
 14 culturing such species;

15 (B) the extent to which aquaculture research  
 16 and development have been undertaken, within the  
 17 public and private sectors, with respect to such  
 18 species;

19 (C) the time and resources which will be re-  
 20 quired to develop aquaculture technology to the  
 21 point where the species can be cultured on a com-  
 22 mercial basis; and

23 (D) such other factors as such Secretary deter-  
 24 mines to be appropriate; and

25 (2) contain a program of aquaculture development

1 prepared by the appropriate Secretary for each priority  
2 aquatic species.

3 (c) The program contained in the plan for each priority  
4 aquatic species shall set forth those actions which the appro-  
5 priate Secretary determines should be undertaken, and the  
6 period of time within which each such action should be  
7 completed, to provide for the culture of each such spe-  
8 cies on a commercial basis. Such actions, with respect to each  
9 priority aquatic species, shall include—

10 (1) such research and development as may be nec-  
11 essary and appropriate regarding—

12 (A) aquaculture facility design and operation,

13 (B) water quality management,

14 (C) utilization of waste products (including  
15 thermal effluents),

16 (D) nutrition and the development of economi-  
17 cal feeds; and

18 (E) life history, genetics, physiology, and  
19 pathology and disease control (including research

20 regarding organisms which may not be harmful to  
21 fish and shellfish but are injurious to humans);

22 (2) research with respect to processing and market  
23 development;

24 (3) research with respect to production manage-  
25 ment and quality control;

(4) the construction, purchase, lease, or acquisition  
of necessary developmental aquaculture facilities; and  
(5) such other actions as such Secretary deems  
necessary and appropriate.

(d) In preparing a program under the plan for any  
priority aquatic species, and in reviewing any such program  
pursuant to subsection (e), the appropriate Secretary shall,  
to the extent practicable, take into account any significant  
action which has been, or which is proposed to be, under-  
taken by any other Federal or State agency or by any  
person, which may affect the accomplishment of the pro-  
gram.

(c) (1) The appropriate Secretary shall review on an  
annual basis—

(A) each aquatic species not identified as a priority  
aquatic species; and

(B) the program established under the plan for  
each priority aquatic species to determine whether the  
actions specified in the program are being accomplished  
on a successful and timely basis.

(2) If as a result of the review conducted pursuant  
to paragraph (1) (A), the appropriate Secretary finds that  
any aquatic species can be cultured on a commercial basis  
after taking into account the criteria set forth in subsection  
(b) (1), the Secretary of Commerce shall by regulation

1 amend the plan to identify such species as a priority aquatic  
 2 species and establish a program for such species pursuant  
 3 to subsection (c).

4 (3) If as a result of the review conducted pursuant to  
 5 paragraph (1) (B), the appropriate Secretary finds that—

6 (A) any action so specified should be revised, such  
 7 Secretary shall make such revision as he deems neces-  
 8 sary and appropriate; or

9 (B) sufficient progress is not being made with re-  
 10 spect to any such program or that actions taken under  
 11 any such program indicate that culture of the priority  
 12 aquatic species concerned on a commercial basis is doubt-  
 13 ful, such Secretary shall cancel the program.

14 The Secretary of Commerce shall by regulation amend the  
 15 plan whenever any revision or cancellation is made pursuant  
 16 to this subsection.

#### 17 SEC. 5. FUNCTIONS.

18 (a) The appropriate Secretary shall—

19 (1) implement the plan established pursuant to  
 20 section 4;

21 (2) provide advisory, educational, and technical  
 22 services (including training) with respect to aquaculture  
 23 to interested public and private organizations and indi-  
 24 viduals; but in providing such services; shall, to the  
 25 maximum extent practicable, avoid duplication of like

1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25

services regarding aquaculture which are provided by other Federal agencies;

(3) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, and educational institutions regarding the development of aquaculture technology;

(4) identify legal and regulatory constraints which inhibit the development of aquaculture; and

(5) prescribe such regulations as may be necessary to carry out the provisions of this Act.

(b) The appropriate Secretary may—

(1) for the purpose of assessing the economic feasibility of any aquaculture system—

(A) conduct scale tests of the system, and, if necessary for the conduct of any such test, construct, operate, and maintain developmental aquaculture facilities, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance natural fish and shellfish stocks by aquaculture; and

(3) carry out such studies and research with respect to aquatic species as may be appropriate regard-

less of whether such species is or has been identified as a priority aquatic species; and

1 (4) take such other actions as he deems necessary  
2 and appropriate to carry out the purposes of this Act.

3 (c) In addition to carrying out such other functions  
4 as are required of him by this Act, the Secretary of Com-  
5 merce shall—

6 (1) establish and maintain an aquaculture infor-  
7 mation center which shall function as a national clear-  
8 ouse for the collection, selection, analysis, and dis-  
9 semination of scientific, technical, legal, and economic  
10 information relating to aquaculture;

11 (2) maintain an inventory of public and private  
12 aquaculture being carried out in the United States with  
13 respect to each aquatic species, which shall include, but  
14 shall not be limited to, information on acreages, water  
15 use, production, and culture techniques;

16 (3) arrange for the mutual exchange of informa-  
17 tion relating to aquaculture with foreign nations; and

18 (4) submit to Congress, before February 1 of each  
19 year, a report on the implementation of the provisions  
20 of this Act during the immediately preceding fiscal  
21 year, which report may include any recommendation  
22 (including suggested legislation) which in his opinion  
23 is necessary and appropriate to achieve further the pur-  
24 poses of this Act.

## 1: SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES

## 2: . . . REGARDING AQUACULTURE.

3: (a) (1) There is established the Interagency Commit-  
 4: tee on Aquaculture (hereafter in this Act referred to as the  
 5: "Committee") which shall be composed of the following  
 6: officers or their designees:

7: (A) The Secretary of Commerce, who shall be the  
 8: Chairman of the Committee.

9: (B) The Secretary of the Interior.

10: (C) The Secretary of Agriculture.

11: (D) The Administrator of the Environmental Pro-  
 12: tection Agency.

13: (E) The Administrator of the Energy Research  
 14: and Development Administration.

15: (F) The Commissioner of Food and Drugs.

16: (G) The chief executive officer of any other Fed-  
 17: eral agency which the Secretary of Commerce finds to  
 18: have significant functions which relate, or may relate,  
 19: to the development and implementation of aquaculture.

20: (2) The functions of the Committee shall be—

21: (A) to insure that there is a continuing exchange  
 22: of information, among the agencies represented on the  
 23: Committee with respect to the nature and status of the  
 24: programs or projects being carried out by such agencies

1 which relate, or which may apply, to aquaculture in  
2 general or to the implementation of the plan; and

3 (B) to review on a continuing basis the relevant  
4 programs and projects of all Federal agencies to deter-  
5 mine whether they are being carried out in compliance  
6 with subsection (b).

7 (b) Each Federal agency which has any function or  
8 responsibility with respect to aquaculture or has jurisdiction  
9 over any activity which affects (or may affect) the achieve-  
10 ment of the purposes of this Act, shall, in consultation with  
11 the appropriate Secretary and to the maximum extent prac-  
12 ticable, carry out such function, responsibility, and activity  
13 in a manner which is consistent with the purposes of this  
14 Act.

15 (c) Nothing in this Act shall be construed to amend,  
16 repeal, or otherwise modify the authority of any Federal  
17 officer or any Federal agency to carry out any functions  
18 relating to aquaculture which are authorized under any other  
19 provision of law.

20 **SEC. 7. CONTRACTS AND GRANTS.**

21 (a) The appropriate Secretary may carry out any func-  
22 tion under this Act (other than any function under section  
23 4 relating to the identification of priority aquatic species and  
24 the preparation of plan programs for such species) through

1 grants to, or contracts with, any other Federal agency, any  
2 agency of any State or political subdivision thereof, any  
3 regional commission, any educational institution, or any<sup>4</sup>  
4 person.

5 (b) Any contract entered into, or any grant made,  
6 pursuant to this section shall contain such conditions and  
7 limitations as the appropriate Secretary shall by regulation  
8 prescribe as being necessary and appropriate to protect the  
9 interests of the United States; except that no contract may  
10 be entered into, and no grant may be made, pursuant to this  
11 section unless the applicant submits with his application  
12 therefor a certification from each appropriate State agency  
13 and each appropriate local government agency stating that  
14 nothing in the laws administered by such agency prevents  
15 the carrying out of the project to which the contract or  
16 grant will be applied.

17 (c) The amount of any grant made pursuant to this  
18 section may not exceed one-half of the estimated cost of the  
19 project for which the grant is made.

20 (d) Any person who receives a grant or contract under  
21 this section shall make available to the Secretary and to  
22 the Comptroller General of the United States, or any of  
23 their authorized representatives, for purposes of audit and  
24 examination, any books, documents, papers, and records that

1 are pertinent to the funds received by such person under  
2 such grant or contract.

3 SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR  
4 AQUACULTURE FACILITIES.

5 (a) (1) The Secretary may, subject to the provisions  
6 of this section, guarantee, or make a commitment to guaran-  
7 tee, the payment of interest on, and the principal amount  
8 of, any obligation issued by an obligor for any of the follow-  
9 ing purposes:

10 (A) The financing of the construction, reconstruc-  
11 tion, or reconditioning of any aquaculture facility within  
12 the United States (including the financing of the pur-  
13 chase cost of any aquaculture facility to be reconstructed  
14 or reconditioned); except that no obligation may  
15 be guaranteed under this section later than 2 years after  
16 the date of the completion of the construction, recon-  
17 struction, or reconditioning of the aquaculture facility  
18 involved.

19 (B) The financing of the initial operating expenses  
20 of any aquaculture facility within the United States.

21 (C) The refinancing of any existing obligation  
22 issued for any of the purposes specified in subparagraph  
23 (A) or (B), whether or not guaranteed under this  
24 section, including, but not limited to, any short-term

1 obligation incurred for the purpose of obtaining tem-  
2 porary funds for refinancing.

3 (2) The full faith and credit of the United States is  
4 pledged to the payment of all guarantees made under this  
5 section with respect to both principal and interest, including  
6 any interest, if provided for in the guarantee, which may  
7 accrue between the date of default under a guaranteed obli-  
8 gation and the payment in full of the guarantee.

9 (3) Any guarantee, or commitment to guarantee, made  
10 by the Secretary under this section shall be conclusive evi-  
11 dence of the eligibility of the obligations for such guarantee,  
12 and the validity of any guarantee, or commitment to guaran-  
13 tee, so made shall be incontestable.

14 (4) The aggregate unpaid principal amount of all obli-  
15 gations guaranteed under this section and outstanding at  
16 any one time shall not exceed \$100,000,000.

17 (b) (1) Obligations guaranteed under this section—  
18 (A) shall have an obligor approved by the Secre-  
19 tary as being responsible and possessing the ability, ex-  
20 perience, financial resources, and other qualifications  
21 necessary for the adequate operation and maintenance of  
22 the aquacultural facilities;  
23 (B) shall be in an aggregate principal amount  
24 which does not exceed 87½ percent of the actual cost

1 involved or the depreciated actual cost, as determined  
2 by the Secretary;

3 (C) shall have maturity dates satisfactory to the  
4 Secretary, but not to exceed 25 years;

5 (D) shall provide for payments by the obligor  
6 satisfactory to the Secretary; and

7 (E) shall bear interest (exclusive of charges for  
8 the guarantee and service charges, if any) at rates not  
9 to exceed such percentage per annum on the unpaid prin-  
10 cipal as the Secretary determines to be reasonable, tak-  
11 ing into account the range of interest rates prevailing in  
12 the private market for similar loans and the risks as-  
13 sumed by the Secretary.

14 (2) No obligation shall be guaranteed under this sec-  
15 tion unless the obligor conveys or agrees to convey to the  
16 Secretary such security interest as the Secretary may re-  
17 quire to reasonably protect the interests of the United  
18 States.

19 (c) (1) The Secretary may charge a fee for any obli-  
20 gation guaranteed under this section, the amount of which  
21 shall be established by the Secretary by regulation but  
22 which may not exceed one-half of 1 percent per annum of  
23 the outstanding principal balance of the obligation. Fee  
24 payments shall be made by the obligor to the Secretary

1: When moneys are first advanced under a guaranteed obliga-  
2 tion and at least 60 days before each anniversary date  
3 thereafter.

4 (2) The Secretary shall charge and collect from the ob-  
5 ligor such amounts as he may deem reasonable for the in-  
6 vestigation of the application for any guarantee, for the  
7 appraisal of properties offered as security for any guarantee,  
8 and for the inspection of such properties during construc-  
9 tion, reconstruction, or reconditioning; except that such  
10 charges shall not aggregate more than one-half of 1 percent  
11 of the original principal amount of the obligation to be  
12 guaranteed.

13 (3) All fees and other amounts received by the Secre-  
14 tary under the provisions of this subsection shall be de-  
15 posited in the Fund.

16 (4) Obligations guaranteed under this section, and  
17 agreements relating thereto, shall contain such other provi-  
18 sions with respect to the protection of the security interests  
19 of the United States (including acceleration and subroga-  
20 tion provisions and the issuance of notes by the obligor to  
21 the Secretary), liens and releases of liens; payments of  
22 taxes, and such other matters as the Secretary may prescribe.

23 (d) (1) In the event of a default, which has continued  
24 for 30 days; in any payment by the obligor of principal or  
25 interest due under any obligation guaranteed under this

1 section, the obligee or his agent shall have the right to  
2 demand, at or before the expiration of such period as may  
3 be specified in the guarantee or related agreements, but not  
4 later than 90 days from the date of such default, payment  
5 by the Secretary of the unpaid principal amount of said  
6 obligation and of the unpaid interest thereon to the date  
7 of payment. Within such period as may be specified in the  
8 guarantee or related agreements, but not later than 30 days  
9 from the date of such demand, the Secretary shall promptly  
10 pay to the obligee or his agent the unpaid principal amount  
11 of the obligation and unpaid interest thereon to the date of  
12 payment; except that the Secretary shall not be required  
13 to make such payment if before the expiration of such period  
14 he finds that there was no default by the obligor in the pay-  
15 ment of principal or interest or that such default has been  
16 remedied before any such demand.

17 (2) Payments required to be made by the Secretary  
18 under paragraph (1) shall be made by the Secretary from  
19 moneys which may be appropriated to the Fund or obtained  
20 from the Secretary of the Treasury pursuant to paragraph  
21 (5).

22 (3) In the event of any payment by the Secretary  
23 under paragraph (1), the Secretary shall have all rights in  
24 any security held by him relating to his guarantee of such  
25 obligations as are conferred upon him under any security

1 agreement with the obligor. Notwithstanding any other pro-  
2 vision of law relating to the acquisition, handling, or disposal  
3 of property by the United States, the Secretary may, under  
4 such terms and conditions as the Secretary prescribes or  
5 approves, complete, recondition, reconstruct, renovate, re-  
6 pair, maintain, operate, or sell any property acquired by  
7 him pursuant to a security agreement with the obligor.

8 (4) After any default referred to in paragraph (1),  
9 the Secretary shall take such action against the obligor or  
10 any other parties liable thereunder that, in his discretion, may  
11 be required to protect the interests of the United States.  
12 Any suit may be brought in the name of the United States  
13 or in the name of the obligee and the obligee shall make  
14 available to the United States all records and evidence neces-  
15 sary to prosecute any such suit. The Secretary may accept  
16 a conveyance of title to and possession of property from the  
17 obligor or other parties liable to the Secretary and may pur-  
18 chase the property for an amount not greater than the un-  
19 paid principal amount of such obligation and interest there-  
20 on. In the event the Secretary receives through the sale of  
21 property an amount of cash in excess of any payment made  
22 to an obligee under paragraph (1) and the expenses of  
23 collection of such amounts, he shall pay such excess to the  
24 obligor.

25 (5) If at any time the moneys in the Fund are not

1 sufficient to pay any amount the Secretary is obligated to  
2 pay under paragraph (1), the Secretary shall issue to the  
3 Secretary of the Treasury notes or other obligations (only  
4 to such extent and in such amounts as may be provided for  
5 in appropriation Acts); in such forms and denominations,  
6 bearing such maturities, and subject to such terms and con-  
7 ditions as the Secretary of the Treasury prescribes. Such  
8 notes or other obligations shall bear interest at a rate deter-  
9 mined by the Secretary of the Treasury, taking into consid-  
10 eration the current average market yield on outstanding  
11 marketable obligations of the United States of comparable  
12 maturities during the month preceding the issuance of such  
13 notes or other obligations. The Secretary of the Treasury  
14 shall purchase any notes and other obligations to be issued  
15 hereunder and for such purpose he may use as a public debt  
16 transaction the proceeds from the sale of any securities issued  
17 under the Second Liberty Bond Act, as amended, and the  
18 purposes for which securities may be issued under such Act,  
19 as amended, are extended to include any purchases of such  
20 notes and obligations. The Secretary of the Treasury at any  
21 time may sell any of the notes or other obligations acquired  
22 by him under this paragraph. All redemptions, purchases,  
23 and sales by the Secretary of the Treasury of such notes  
24 or other obligations shall be treated as public debt trans-  
25 actions of the United States. Moneys borrowed under this

1 paragraph shall be deposited in the Fund and redemptions  
2 of such notes and obligations shall be made by the Secretary  
3 from such Fund.

4 (6) Whoever, for the purpose of obtaining any loan  
5 or advance of credit from any person with the intent that  
6 an obligation relating to such loan or advance of credit shall  
7 be offered to or accepted by the Secretary to be guaranteed,  
8 or for the purpose of obtaining any extension or renewal of  
9 any loan, advance of credit, or mortgage relating to an  
10 obligation guaranteed by the Secretary, or the acceptance,  
11 release, or substitution of any security on such a loan,  
12 advance of credit, or for the purpose of influencing in any  
13 way the action of the Secretary under this section, makes,  
14 passes, utters, or publishes, or causes to be made, passed,  
15 uttered, or published any statement, knowing the same to be  
16 false, or alters, forges, or counterfeits, or causes or procures  
17 to be altered, forged, or counterfeited, any instrument, paper,  
18 or document, or utters, publishes, or passes as true, or causes  
19 to be uttered, published, or passed as true, any instrument,  
20 paper, or document, knowing it to have been altered, forged,  
21 or counterfeited, or willfully overvalues any security, asset,  
22 or income shall be guilty of a misdemeanor.

23 (c) The Secretary shall promulgate such rules and  
24 regulations as may be deemed necessary or appropriate to  
25 carry out the purposes and provisions of this section.

1 (f) For purposes of this section—

2 (1) The term “actual cost” of an aquaculture fa-  
3 cility, as of any specified date, means the aggregate, as  
4 determined by the Secretary, of—

5 (A) all amounts paid by, or for the account  
6 of, the obligor with respect to such facility on or  
7 before that date; and

8 (B) all amounts which the obligor is then obli-  
9 gated to pay from time to time thereafter, for the  
10 construction, reconstruction, or reconditioning of  
11 such facility.

12 (2) The terms “construction”, “reconstruction”,  
13 or “reconditioning” include, but are not limited to, de-  
14 signing, inspecting, outfitting, and equipping, of the  
15 aquaculture facility involved.

16 (3) The term “depreciated actual cost” means the  
17 actual cost depreciated on a straightline basis over the  
18 useful life of the property involved as determined by the  
19 Secretary.

20 (4) The term “obligation” means any note, bond;  
21 debenture, or other evidence of indebtedness issued for  
22 one of the purposes specified in subsection (a).

23 (5) The term “obligee” means the holder of any  
24 obligation.

25 (6) The term “obligor” means any person pri-

1       marily liable for payment of the principal of or interest  
2       on any obligation.

3   SEC. 9. DISASTER LOANS.

4       (a) (1) The Secretary may make one or more loans  
5       to any person who has any obligation which is guaranteed  
6       under section 8 to assist such person, if—

7           (A) the aquaculture facility to which such guar-  
8       antee applies is damaged or destroyed as a result of a  
9       natural disaster; or

10          (B) the stock of aquatic species at the facility to  
11       which such guarantee applies is damaged or destroyed  
12       by disease, pollution, or contamination (caused by rea-  
13       sons other than a natural disaster or the willful or negli-  
14       gent action of such person)

15       to accomplish one or more of the following objectives:

16           (i) The repair, rehabilitation, or replacement  
17       of such facility.

18           (ii) The replacement of aquatic species stock.

19           (iii) To continue aquaculture operations while  
20       any such repair, rehabilitation, or replacement is in  
21       progress.

22           (iv) The purchase, construction, or reconstruc-  
23       tion of an aquaculture facility at another location if  
24       the Secretary finds that—

25           (I) the damage to the facility is so exten-

1 ... sive that its repair or rehabilitation is imprac-  
2 ticable;

3 (II) the replacement of the destroyed fa-  
4 cility at the same location is impracticable; or

5 (III) the pollution or contamination re-  
6 ferred to in subparagraph (B) is likely to per-  
7 sist for such period of time that continued  
8 aquaculture operations at the same location are  
9 impracticable.

10 (v) To meet payments of principal and in-  
11 terest on the obligation so guaranteed for such  
12 period of time as the Secretary deems appropriate,  
13 taking into account the degree of damage to such  
14 facility or stock.

15 (vi) To retire in full such obligation.

16 (2) No loan may be made under this section for any  
17 damage or destruction—

18 (A) which is compensated for by insurance (in-  
19 cluding insurance paid under section 11) or otherwise;

20 or

21 (B) for which assistance is available under any  
22 other Federal disaster assistance program.

23 (b) Any loan made pursuant to this section shall—

24 (1) mature in not more than 20 years;

25 (2) bear interest at a rate not less than the rate

1 . . . determined by the Secretary of the Treasury taking  
 2 . . . into consideration the average market yield on outstand-  
 3 . . . ing Treasury obligations of comparable maturity;  
 4 . . . (3) be approved only upon the furnishing of such  
 5 . . . security or other reasonable assurance of repayment  
 6 . . . as the Secretary may require; and  
 7 . . . (4) be subject to such other terms and conditions  
 8 . . . as the Secretary may require, to protect the interests  
 9 . . . of the United States.

10 . . . (c) The Secretary may consent to the modification of  
 11 . . . any term or condition of any loan made under this section,  
 12 . . . including, but not limited to, reduction of the rate of inter-  
 13 . . . est, deferment of any installment of principal or interest,  
 14 . . . or change in any security requirement.

15 SEC. 10. FEDERAL AQUACULTURE ASSISTANCE FUND.

16 . . . (a) There is established in the Treasury of the United  
 17 States a Federal Aquaculture Assistance Fund. The Fund  
 18 shall be available to the Secretary, as a revolving fund for  
 19 the purpose of carrying out the provisions of sections 8 and  
 20 9. The Fund shall consist of—

- 21 . . . (1) any sums appropriated to the Fund;  
 22 . . . (2) any fees received in connection with any guar-  
 23 . . . antee made under section 8;  
 24 . . . (3) recoveries and receipts under security, subro-

gation, and other rights and authorities described in section 8; and

(4) payments of principal and interest received under any loan made under section 9.

All payments made by the Secretary to carry out the provisions of sections 8 and 9 including reimbursements to other Government accounts), shall be paid from the Fund, only to the extent provided in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of sections 8 and 9 shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

SEC. 11. INSURANCE AGAINST CERTAIN LOSSES INCURRED IN AQUACULTURE FACILITY OPERATIONS.

(a) The Secretary of Commerce shall establish an insurance program to insure any person who has any obligation guaranteed under section 8 against—

(1) any loss of or damage to (A) the aquaculture facility to which such guarantee applies, and (B) the stock of aquatic species being cultured at such facility;

(2) any liability of such person which results from the carrying out of operations at such facility.

1 (b) (1) The insurance program required to be estab-  
2 lished by subsection (a) shall offer all-risk coverage; except  
3 that no person may be insured under such program for any  
4 risk for which insurance is otherwise available at rates which  
5 the Secretary determines to be reasonable.

6 (2) No payment shall be made under the insurance  
7 provided for in this section with respect to any loss, damage,  
8 or liability covered by any other policy of insurance or any  
9 other provision of law.

10 (c) (1) Any person who desires insurance provided  
11 for under this section shall make application therefor to the  
12 Secretary of Commerce.

13 (2) The Secretary of Commerce shall establish pre-  
14 miums for the insurance provided for under this section at  
15 such rates as the Secretary of Commerce deems sufficient to  
16 cover claims arising therefrom. Any such premiums shall be  
17 reduced by the amount of a Government contribution which  
18 shall not exceed 75 percent of the amount of the premium.

19 (d) The Secretary shall prescribe such regulations as  
20 may be necessary to carry out the provisions of this section,  
21 including, but not limited to, regulations which specify (1)  
22 the types of risks for which insurance may be issued under  
23 this section, and (2) the adjustment and payment proce-  
24 dures which shall apply with respect to claims made under  
25 such insurance.

## 1 SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

2 (a) For purposes of carrying out the provisions of this  
3 Act other than sections 8, 9, and 11—

4 (1) there are authorized to be appropriated to  
5 the Secretary of Commerce not to exceed—

6 (A) \$1,500,000 for fiscal year 1978, none of  
7 which may be used for making grants under section  
8 7, and

9 (B) \$12,500,000 for each of the fiscal years  
10 1979 and 1980; and

11 (2) there are authorized to be appropriated to the  
12 Secretary of the Interior not to exceed—

13 (A) \$1,000,000 for fiscal year 1978, none of  
14 which may be used for making grants under sec-  
15 tion 7, and

16 (B) \$7,500,000 for each of the fiscal years  
17 1979 and 1980.

18 (b) There are authorized to be appropriated, without  
19 fiscal year limitation, to the Fund not to exceed \$150,000,-  
20 000, of which not to exceed \$100,000,000 shall be used  
21 for purposes of section 8 and not to exceed \$50,000,000  
22 shall be used for purposes of section 9.

23 (c) There are authorized to be appropriated to the  
24 Secretary of Commerce such sums as may be necessary and  
25 appropriate for purposes of carrying out section 11.

94TH CONGRESS  
2D SESSION

H. R. 14695

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**A BILL**

To provide for the development of aquaculture  
in the United States, and for other purposes.

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By Mr. LEGGETT, Mrs. SULLIVAN, Mr. FORSYTHE,  
Mr. BREAUX, Mr. MOSHER, Mr. MURPHY of  
New York, Mr. EMERY, Mr. YOUNG of  
Alaska, Mr. DE LA GARZA, Mr. DE LUCCO, Mr.  
OBERSTAR, Mr. ANDERSON of California, Mr.  
LENT, Mr. GINN, Mr. AU COIN, Mr. ROGERS,  
Mr. RINALDO, Mr. DU PONT, Mr. STUDDS, Mr.  
DOWNING of Virginia, Mr. BONKER, Mr.  
BIAGGI, and Mr. PRITCHARD

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JULY 2, 1976

Referred to the Committee on Merchant Marine and  
Fisheries

COMMITTEE REPORT

SCS CSHB 264 (RESOURCES)  
AN ACT RELATING TO FISHERIES ENHANCEMENT  
AND PROVIDING FOR AN EFFECTIVE DATE

Section 1.

Section 1 repeals AS 16.10.375 and re-enacts it with new language. The present section 375 requires the Commissioner of Fish and Game to:

- (1) Designate regions of the State for purposes of enhancing salmon production.
- (2) Develop and amend if necessary a comprehensive salmon enhancement plan for each region for both public and private non-profit hatchery systems.
- (3) Develop a comprehensive salmon enhancement plan in cooperation with appropriate qualified regional associations formed under section 380.

HB 264 rewords section 375 and requires the following activity:

- (1) The Commissioner of Fish and Game shall designate regions of the State for purposes of salmon production.
- (2) Develop and amend as necessary a comprehensive salmon plan for each region for both public and private non-profit hatchery systems.

These teams will provide the means by which the second half of the original legislative intent can be accomplished. This intent states that "...the program shall be operated without adversely affecting natural stocks of fish in the state and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks." The planning team approach to this concern will bring the greatest amount of talent to bear on this problem and will allow for a flexible approach that can tailor a program to suit the unique conditions of a specific region while allowing for the adaptability necessary to accommodate chance. It constitutes an approach that integrates the many human concerns and biological variables into a comprehensive problem solving effort. It is recognized by the legislature that planning is a continuous process that should be cooperatively conducted on a local level, by persons familiar with the area in question.

It is also intended that the Division of Fisheries, Rehabilitation and Enhancement be the lead agency in coordinating this planning which should be an inter divisional effort on the part of the Department. This intent is expressed as an extension of the statutory responsibility of the division to " 1)Develop and continually maintain a comprehensive, coordinated State plan for the orderly present and long-range rehabilitation,

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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- (3) Develop a comprehensive salmon enhancement plan in cooperation with appropriate qualified regional associations formed under section 380.

HB 264 rewords section 375 and requires the following activity:

- (1) The Commissioner of Fish and Game shall designate regions of the State for purposes of salmon production.
- (2) Develop and amend as necessary a comprehensive salmon plan for each region for both public and private non-profit hatchery systems.

(3) Require that the comprehensive salmon plan be developed by regional planning teams.

(4) The regional planning teams shall consist of; the Department of Fish and Game personnel, and representatives the appropriate qualified regional associations formed under section 380 of this chapter.

The basic change in the present section 375 by this bill is the requirement for the creation of regional planning teams. In the past year it's proved that there was some ambiguity regarding how the comprehensive enhancement plans were to be developed. The experience in Prince William Sound Aquaculture Association in dealing with the Department of Fish and Game at the regional planning team concept was finally evolved and put in place and is working.

It is the intent of this section that the Department of Fish and Game involve the public in the development of comprehensive salmon plans by the creation of regional planning teams which shall consist of representatives of appropriate qualified regional associations, local department personnel, regional department personnel and other personnel as determined appropriate by the Commissioner.

These teams will provide the means by which the second half of the original legislative intent can be accomplished. This intent states that "...the program shall be operated without adversely affecting natural stocks of fish in the state and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks." The planning team approach to this concern will bring the greatest amount of talent to bear on this problem and will allow for a flexible approach that can tailor a program to suit the unique conditions of a specific region while allowing for the adaptability necessary to accommodate chance. It constitutes an approach that integrates the many human concerns and biological variables into a comprehensive problem solving effort. It is recognized by the legislature that planning is a continuous process that should be cooperatively conducted on a local level, by persons familiar with the area in question.

It is also intended that the Division of Fisheries, Rehabilitation and Enhancement be the lead agency in coordinating this planning which should be an inter divisional effort on the part of the Department. This intent is expressed as an extension of the statutory responsibility of the division to " 1)Develop and continually maintain a comprehensive, coordinated State plan for the orderly present and long-range rehabilitation,

enhancement and development of all aspects of the State's fisheries for the perpetual use, benefit and enjoyment of all citizens and revise and update this plan annually." In regard to salmon, it is clear that any planning effort must incorporate full consideration of all departmental functions, including management, rehabilitation and enhancement.

This amendment to the legislation adds some clarity and direction to the Department of Fish and Game regarding how these regional salmon plans are to be developed.

#### Section 2.

Section 2 amends AS 16.10.400 (a). The amendments to section (a) and section (e) are obvious from the draft of the bill. The amendment to section (a) tightens up the discretion given to the Commissioner of Fish and Game under the existing law. Under HB 264, "the Commissioner or his designee may issue a permit subject to the restrictions imposed by statute or regulations." The discretionary phrase "he considers desirable" is removed. The reason is to give the permit holders some certainty regarding their actions.

The second change to subsection (a) adds the language to require that a permit application be reviewed by the regional planning team prior to its being issued. The reason is to

make sure that the permit application is reviewed by the regional planning team drawing up the comprehensive salmon plan prior to the issuance of any permits.

The repeal of AS 16.10.400 (d), the section allowing for renewal of permits, leaves the situation that once a permit is issued by the Commissioner of Fish and Game, it remains in the permit holder it may not be transferred and may only be altered, suspended or revoked subject to AS 16.10.430 which deals with failure to comply with conditions or terms of the permit. This amendment again is an attempt to give some certainty to the permit holder that the terms under which he is going to operate a permit will either be in law or regulation and not subject to discretionary decisions by the Department of Fish and Game.

Subsection (e) is an attempt to clarify an ambiguous situation under the present law. Under the present law, there are provisions for three different types of non-profit hatchery corporations to exist; those established by a qualified regional association; those established by a separate non-profit corporation which are not approved by qualified regional association. This language clarifies the ambiguity that existed of whether a qualified regional association had to go out and establish a separate non-profit corporation for each of the hatcheries it

was going to build. Under the amending language, a qualified regional association can construct as many hatcheries as it wishes without establishing separate corporate identities for each of those hatcheries.

### Section 3.

Section 3 amends AS 16.10.430 (a). The amendment of the additional language to the present section 430 requires that a decision to revoke a permit may only be made "after the regional planning team for the area in which the hatchery is located is notified and granted an opportunity to comment on the proposed suspension or revocation." This will assure the regional planning team which is developing and administering the comprehensive salmon plan for each region will be involved in the decision making process.

### Section 4.

Section 4 amends AS 16.10.450. There is a little bit of possible confusion in reading the proposed amendments and deletions in this section. On examination of the bill it should be noted that the phrase deleted on page 2 line 21 "fisheries research, salmon rehabilitation projects, or" is merely moved up into line 18. It's just a rearrangement of the phrases.

The substantive amendment to AS 16.10.450 is the phrase "costs of operating the qualified regional association for the area in which the hatchery is located." The addition of that language allows the use of funds obtained from the sale of surplus salmon or salmon eggs which return to the hatchery to help defray the costs of operating the qualified regional association for the area in which the hatchery is located. The reason for the addition of that language is the realization after starting to work with the law allowing the establishment of regional associations, that there are no provisions made for the funding of such regional associations. Although it is realized that there will be no surplus salmon until there are some returns to the hatcheries which may be 4 to 6 to 8 years down the line, and even then the monies received from the sale of surplus salmon will probably be primarily dedicated to the retirement of debt and operating costs. This additional language will provide for the possibility of funding the qualified regional associations.

The second amendment to section 450 is a rewording of the present law to clear up any ambiguities of fish which return to hatcheries and are sold for human consumption, whether they return to a State hatchery or a private non-profit hatchery, shall be a comparable quality to fish harvested in the commercial area and sold at prices commensurate with the current market.

Section 5

Section 5 repeals and re-enacts AS 16.10.470 regarding the annual reporting. The present law regarding annual reporting requires the submission of an annual report to the Department of Fish and Game including but not limited to:

- (1) A Complete description of all significant hatchery operations;
- (2) Statistics on the numbers of eggs and fish handled by the hatchery whether for production or sale;
- (3) Further recommendations for modification of the hatchery program;
- (4) Any other relevant data required by the Department.

The amended amendment requires an annual report to "include but not limited to information pertaining to species; brood stock source; number, age, weight, and length of spawners; number of eggs taken, and fry fingerling produced; and the number, age, weight, and length of adult returns attributable to hatchery releases, on a form to be provided by the Department of Fish and Game. The other three items listed in the present section 470 are deleted. The reason for the deletion is that

the other three items are very ambiguous and could if required become quite costly to the hatchery owner. It is felt by the non-profit hatchery owners and potential owners that the overhead cost for operating hatcheries should be held at a minimum and that any reporting features should be only those which are required by necessity and not those of convenience.

Subsection (b) of AS 16.10.470 requires the submission of an annual financial report for the Department of Commerce and Economic Development on a form to be provided by the Department of Commerce and Economic Development. The primary purpose of this amendment is to make sure that the financial statements and essential operating criteria will be kept by all non-profit hatcheries in the state in the same basic format so there will be an ability to compare cost and efficiencies throughout the State.

#### Section 6.

Section 6 amends AS.16.10.500, the declaration of policy, to allow for the making of grants for organizational and planning purposes to regional associations which have qualified under section .380 and by means of long term low interest loans for hatchery planning construction and operations.

The reason for the making of grants for organizational and planning purpose has been as a result of the realization of

the realities that Prince William Sound Aquaculture Association and the Southern Southeast Regional Aquaculture Association have gone through in organizing the regions which are required by this Act.

The grants under this provision are only available to regional associations which have been qualified under section .380 which means that they have been recognized by the Commissioner of Fish and Game and he has determined that:

- 1.0 Their Board of Directors is representative of the requirements of the law under this act; and
- 2.0 that he has designated that region of which the corporation will operate under.

Because of the size of the regions and the necessity for large regions to operate under a regional type concept, the cost of organizing and planning the region is substantial. Also, until the region is organized and has an opportunity to vote on an assessment procedure there is no revenue. These grants are intended to provide that initial monies to organize and to get an assessment mechanism in place for the ongoing revenues to the regional hatchery corporations.

The second provision of the amendment to section 500 adds the additional language so that the long term low interest loans may be used for operational costs. Again, this is a result of the realization after a year of operation under this Act that once hatcheries are constructed and the fry released, it may be four to six years before there are any returns to the hatchery from which a surplus of fish may be sold to provide revenues. During that time period there is a necessity for money for operating costs to run the hatcheries and this provision will allow the loans to be made for those operating costs.

Section 7.

Section 7 amends the law by adding a new section AS 16.10.505. The Fisheries Enhancement Revolving Loan Fund was created to assist in the transfer of funds within the State Government. Under this Act the Department of Commerce and Economic Development is authorized to make the loans for the hatchery projects but the Department itself is not funded. This provision will allow them to receive funds, which were also appropriated under HB 253 to this revolving loan fund while their paper is being transferred over to the Department of Revenue at which time the fund would again be filled. The Department of Commerce requested the Fisheries Enhancement Revolving Loan Fund provision to be implemented into the bill.

Section 8.

Section 8 amends AS 16.10.510 (1) and (2). Subsection (1) adds the language to allow the loans to be made for operations of hatcheries facilities. Subsection 2 clarifies the ambiguous tri-level structure of non-profit hatchery corporations as explained in section 2 of HB 264 and also deletes the phrase "provided the hatchery has received preliminary project approval from the Commissioner of Fish and Game." That phrase was deleted on request of Commissioner Brooks of that department in the original HB 264. The phrase "preliminary project approval" was very ambiguous to both the Department and the non-profit hatchery groups and was causing quite a problem in determining when an applicant was qualified for a loan.

Section 9.

Section 9 repeals and re-enacts AS 16.10.510 (8). The present subsection (8) reads as follows: "upon written approval, defer interest and principle payments up to 6 years." The reason for such a provision was based upon the fact that the hatcheries once built and in operation would take four to six years before generating enough dollars from the sale of surplus fish to handle the debt service and retire the loan in addition to providing operating costs. The Department of Commerce and Economic Development found some ambiguity in the present way subsection (8) is written and interpret it to mean that even though they were to defer interest and principle payments up to

6 years." The reason for such a provision was based upon the fact that the hatcheries once built and in operation would take four to six years before generating enough dollars from the sale of surplus fish to handle the debt service and retire the loan in addition to providing operating costs. The Department of Commerce and Economic Development found some ambiguity in the present way subsection (8) is written and interpret it to mean that even though they were to defer interest and principle payments up to 6 years, the interest itself would continue to accrue during the 6 year period.

The provision in section (9) of the bill clarifies the issue and states that no interest on the principle shall accrue during the period up to 6 years before the loan is repaid. The second sentence in subsection 9 "this provision applies to loans made under this chapter before the effective date of this Act." was added by the Senate State Affairs Committee in their Committee Substitute. At the present time there is only one loan under the provisions of this Act by the Department of Commerce and Economic Development. The Aquaculture group in Prince William Sound has received a loan and constructed a hatchery. The loan has not been repaid nor has a 6 year period elapsed at this time. The effect of the second sentence of subsection (8) is to clarify the issue that this amendment is to apply to that loan.

Section 10.

Section 10 adds an additional paragraph AS 16.10.510. Subsection (9) outlines the provisions for making grants for organizational and planning purposes to the qualified regional associations. There is a two-step approach in making the grants under this section:

- 1.0 A grant may be made to a qualified regional association in an amount not to exceed \$100,000.00 per region. That grant is available only after the Commissioner of Fish and Game has found the applicant to qualify pursuant to section .380 as the regional association for that area. That determination includes a determination by the Commissioner of Fish and Game that the Board of Directors of the corporation meets the requirements of the law and that the regional boundaries have been defined according to his discretion.
- 2.0 An additional \$100,000.00 on a 50-50 cash matching basis may be made to those regional associations which have an authorized assessment under either section .530 or .540 of this chapter.

Subsection (9) also provides that the state portion of the matching share shall be made available when a final vote for assessment is made under Section .530 or .540 of this chapter.

The private money would be made available through the collection of the assessments throughout the season and at the end of the fishing season. To the degree that the Department of Commerce and Economic Development feels they can rely upon the collection of the necessary amount of money to match the second \$100,000.00, this sentence allows them to make the state portion of the matching share available.

The last sentence of subsection (9) was added by the Senate State Affairs Committee. It is intended to clarify any ambiguities which may exist in the Department of Commerce and Economic Development on who is eligible.

#### Section 11.

Section 11 amends AS 16.10.520 (a). The amendment to this section again is clarifying the tri-level structure of local private non-profit corporations which is discussed in section 2.

#### Section 12.

Section 12 amends AS 16.10.520 (b). The present subsection (b) reads as follows: "no loan may exceed 75% of the total project cost as determined by the Commissioner."

The Prince William Sound Aquaculture group and the various other experts which have analyzed the situation in the past year, have

found that the 75% loan limitations have made the feasibility of non-profit hatcheries in the private industry very unlikely. The private industry is depleted and is unable to put up the necessary amount of money to equal 25% of the total project cost. The only source of the revenues as can be determined at this time will come from the assessments on the fishermen which even then will take one to two years to build up a 25% portion of the total project costs of a hatchery.

The amendment to AS 16.10.520 (b) makes a substantive change in the present law. The amended section allows loans to be made for the total project costs which are defined as planning and construction costs and the costs for operations for not more than the first six years. The Commissioner of Commerce and Economic Development must determine that the applicant has sufficient financial resources to insure the establishment of an equity position in the project equal to 10% of the loan within six years or less either through an assessment under section .530 or .540 or by other means approved by the Commissioner.

This amendment follows the concept adopted throughout this bill to proceed with the establishment of non-profit hatcheries at a pace as fast as possible and insure that the beneficiaries of the increase in fisheries production are contributing their

share of the funds. This loan provision provides for monies to be loaned for three different types of activities; planning, construction, and operations. The planning and construction portions of the loan provision are intended to provide monies for a broad range of activities related to the selection and development of a site for a hatchery which would include but not be limited to site selection, water source, and quality evaluation, brood stock, sources and selection, transportation of brood stocks to the site, in addition to site preparation and architectural drawings for the facility. The construction costs are intended to meet all of those costs normally related to the construction of a hatchery facility. The provision for loans for costs for up to the first six years of operations is made in recognition of the fact that there may be no returns of fish to the hatchery for a period of 4 to 6 years to provide cash flow for repayment of the debt, debt services and costs of operations.

The last sentence of the amendment providing that the costs for operations shall be loaned on an annual basis, is to insure that that portion of the loan attributable to the operational costs will be available for that purpose and will not be used to cover possible cost overruns in the planning and construction phases of the operations. If there are cost overruns in the planning and construction phases, the borrower must face that

problem at that time and not be dependent upon using money from that portion of the loan attributable to the operational functions of the hatchery.

The amended language adopts the concept of establishing an equity position of 10% of the total project costs over a period of time. The contractor for the project must be paid off initially and not over a period of time. This method allows the construction and operation of hatcheries to go forward in the immediate future, yet guarantees the applicant will establish a 10% equity position in the project.

### Section 13.

Section 13 repeals and re-enacts AS 16.10.530 (a). Section .530 is referred to as the mandatory assessment section. The present law provides that a mandatory assessment may be levied by the Commissioner of Commerce and Economic Development "for the purposes of securing repayment of a loan or loans made to qualified regional associations which have formed a non-profit corporation or to a local non-profit corporation established or approved by a qualified regional association." That section does two things; one, it provides that the assessment, as interpreted by the Commissioner of Commerce may only be levied for the purposes of securing a repayment of a loan. That has been interpreted as meaning only when the loan security is in

jeopardy. The second portion provides that the assessment is inherently dependent upon the application and granting of a loan.

The amendment in the bill rewrites the section to accomplish two basic purposes:

- 1.0 The assessment shall be levied by the Commissioner of Commerce and Economic Development on request of the regional qualified association after compliance with subsection (e) and that the Commissioner determines that the assessment is reasonable.
- 2.0 The revenues derived from the assessment shall be for the purpose of providing revenue for the qualified regional associations in which the assessment is made.

Those provisions accomplish two things:

- 1.0 It unhooks the requirement of a mandatory assessment from the application for a loan or the default on loan repayments.
- 2.0 Provides that the assessment mechanism is initiated by the qualified regional association but subject to final determination by the Commissioner of Commerce.

Subsection (a) of the bill also states that the "Commissioner shall determine whether the procedural requirements under (e) of this section were followed and whether the proposed assessment is reasonable." The reason for that section is to leave the final determination of whether the assessment shall be imposed up to the governmental body through the Commissioner's office both with the procedural safeguards and the substantive question of whether the assessment is reasonable enough in its scope to accomplish the job proposed. That is an important feature when connected with the amendments made in AS 16.10.520 above which require the Commissioner to determine whether the assessment under either section .530 or .540 is of a sufficient amount to insure the establishment of an equity position of 10% of the loan over a six year period.

Subsection (a) clarifies that the assessment will be levied on the basis of where the fish is caught and not where it is sold. "...an assessment shall be levied on the sale of one or more species of salmon caught by persons licensed under AS 16.05.540 - 16.05.600 in the area in which the assessment is to be levied. AS 16.10.530 (b) is repealed. The reason for the repeal of (b) is that it is no longer relevant with the amendments made to subsection (a).

Section 14.

Section 14 of the bill amends AS 16.10.530(c) and (d). The subsection (c) deletes the provision that the assessment is connected with the application for a loan. That amendment makes the provision consistent with the amendments made in section 13 above.

Subsection (d) states that "the assessment once instituted shall terminate upon a request of the qualified regional corporation but only after all financial obligations relating to the assessments have been met." This provision is necessary in light of the amendments made in AS 16.10.530(a) in section 13 of the bill. With the amendment in subsection (a) the assessment is no longer automatically connected to the loan. This language in AS 16.10.530(d) guarantees that if the assessment is used as collateral to any loan whether from the state or any other source, the qualified regional corporation has no authority and no power to revoke that assessment or stop that assessment until all of the financial obligations relating to the assessment have been met.

Section 15.

Section 15 of the bill amends AS 16.10.530 by adding a new subsection (e). This subsection lays out in detail the procedural requirements for a qualified regional corporation to follow before

a request can be made of the Commissioner of Commerce and Economic Development to impose a mandatory assessment in the area of the regional corporation. The terms may seem detailed and cumbersome, the intent is to provide ample opportunity for all of the people who would be required to pay an assessment to voice their concerns at public meetings and to vote on the assessment. It requires at least two public meetings and that the ballots be made available to all of those who will be made a part of the assessment, twice. It does state that no person may vote more than once but requires that the ballots be made available by mail to all the people within the region who sell fish commercially.

Subsection (f) is also an addition to the present law and states that the qualified regional corporation shall establish standard registration procedures for voting on an assessment under this section.

Section 16.

Section 16 of the bill adds the necessary language to create a regional salmon enhancement authority.

The purpose of creating the regional salmon enhancement authorities is to provide a financial vehicle for the availability of federal dollars.

This language is the near identical language of the Regional Electrification Association which are presently in the statutes, AS 18.57. provided the qualified regional association complies with the requirements of the bill, the state will recognize the creation of a regional salmon enhancement authority as a public body corporate and politic as a political subdivision of the State.

Section 17.

Section 17 states as follows: "Notification, public meeting and meeting and voting procedures instituted before the effective date of this act that are substantially in compliance with AS 16.10.530(e), shall be considered to constitute compliance with this Act, and are ratified upon the effective date of this Act."

The qualified regional corporations in Southern Southeast Regional Aquaculture Association and the Cook Inlet Regional Aquaculture Association have proceeded through somewhat similar notification of public meeting and voting procedures regarding the mandatory assessment provisions at this time. The Southern Southeast Regional Aquaculture Association is at the present time undergoing a large notification public meeting and balloting on the mandatory assessment. That region encompasses all of lower Southeastern Alaska including Petersburg, Wrangell, Ketchikan, Craig, Klawock, Hydaburg and all fishermen who

commercially sold fish within fishing districts 1 through 8. A large portion of those fishermen reside in Oak Harbor, Seattle, Bellingham, Mt. Vernon and other coastal towns in Washington. They are all being provided with a ballot to vote on the mandatory assessment procedures. This section provides that those efforts will be recognized as compliance with the requirements of this bill provided they are in substantial compliance. Other provisions of the law necessarily require the determinations of substantial compliance to be made by the Commissioner of Commerce and Economic Development.

There is a fiscal note attached to this bill from the House Finance Committee pertaining to the grant provisions of AS 16.10.51 found in section 10 of the bill. It anticipates the creation of 6 regions including Ketchikan, Sitka, Bristol Bay, Cook Inlet, Kuskokwim and Prince William Sound. The note anticipates the granting of the entire initial \$100,000 plus the additional \$50,000 matching monies to each region for a total of \$900,000.

March 23, 1977

The Honorable Terri Gardner  
Alaska State Representative  
State Capitol  
Juneau, Alaska 99811

Dear Representative Gardner:

Re: Senate Bill 39 - an Act Authorizing the  
Creation of Salmon Enhancement Authorities  
and Providing for an Effective Date

You have requested the Department of Revenue to review the proposed Senate Bill 39 and point out our concerns on the bill. Subsequently the Department has requested Mr. Eric Wohlforth of the firm of Wohlforth and Flint to review Senate Bill 39 and respond to us in writing.

Mr. Wohlforth's response indicates that there were some legal questions concerning the creation of an authority as a "political subdivision" of the State and that that wording should probably be amended to read something similar to an "authority as a public corporation and body politic" or words similar to that effect. Mr. Wohlforth indicates that the creation of political subdivisions may not be constitutional. With that in mind I would suggest that the committees working on the bill draft amendments which remove the "political subdivision" clause. The response also points out a problem with the delegation of powers to the proposed authorities. The committee may have to consider amending this section as well.

If you have any questions concerning this memorandum or the comments in the bill please don't hesitate to contact me.

Sincerely,

Jim Edenso  
Deputy Commissioner

JE:ge

Enclosures

cc: The Honorable Jalmar Kerttula  
Mr. Bob Palmer  
Mr. Eric Wohlforth

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M E M O R A N D U M

TO: Jim Edenso, Deputy Commissioner of Revenue  
FROM: Timothy G. Middleton, Wohlforth & Flint *JEM*  
DATE: March 17, 1977

You have asked in your letter of March 10, 1977 some questions concerning Senate Bill No. 39, which could create Salmon Enhancement Authorities. Specifically, you have asked:

1. If the State would be liable for obligations issued by the authorities should they default?
2. Would these authorities affect the State's credit rating?

Before addressing your questions I feel compelled to address some underlying questions as to the very inception of these entities. The Supreme Court of Alaska has consistently held that "statewide" authorities are creatures of, and instrumentalities of the State but having a legal existence of their own. This is based on rather specific language found in enabling legislation. For example, in DeArmond v. Alaska State Development Corporation, 376 P2d 717 (Alaska, 1962) the Court said at 724:

The fact that the statute declares that the corporation shall have a legal existence independent of and separate from the State does not add weight to appellant's argument. This is nothing more than a declaration of the legal relationship that most corporations have with respect to their creators.

These authorities, ASHA, AHFC, ASMA, ASDC, and more recently AMBBA, cannot and have not obligated the "State" on their numerous bond issues. The bill here however, does not create another such authority. Rather it purports to create a political subdivision.

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March 17, 1977  
Page Two

IMPERMISSIBLE CREATION OF ANOTHER  
POLITICAL SUBDIVISION

The classification by the bill of this entity as a "political subdivision" is probably impermissible. The Alaska Constitution, Article X, Section 2 says, "All local government powers shall be vested in boroughs and cities." While this section does not mention the term "political subdivision", it is clear that the term means boroughs and cities in this State. Certainly, for example, an authority mentioned in the paragraph above, is not a "political subdivision". See City of Nome v. Block H, Lots 5, 6, & 7, 502 P2d 124 (Alaska, 1972). Also, throughout the finance and taxation article (Article IX) of the Constitution the term "political subdivision" is mentioned. The point here is that the legislature cannot create another species of political subdivision. This is buttressed by Section 1, Article X, wherein it is said the purpose of the Article is to provide for a minimum of local government units. Finally, that a political subdivision is a city or borough is supported by case law, e.g.,:

Attributes which are generally regarded as distinctive of "political subdivisions" . . . are that it exists for purpose of discharging some function of local government, that it has prescribed area, and that it possesses authority for subordinate self government by officers selected by it.  
McClanahan v. Cochise College, 540 P2d 744, 747.

These entities whatever they are, cannot be political subdivisions.

IMPROPER DELEGATION OF GOVERNMENTAL POWERS

If the entities created are not political subdivisions, notwithstanding the appellation as such contained therein, then the bill probably constitutes an invalid delegation of governmental power to a private body, i.e., the regional association which has the authority to create them and choose the boards of directors. The bill purports to create a "public body" corporate and political, yet the powers to

Memorandum  
March 17, 1977  
Page Three

create and to appoint officers therefor is delegated to a private organization. The bill also sets up so-called governmental purposes to be carried out by those entities. It is a pretty well established tenet of Constitutional law that a legislature may not delegate its legislative power to to a private body or private person. Potter v. State, 509 P2d 933, (Oklahoma, 1973); and Blumenthal v. Board of Medical Examiners, 368 P2d 101, Cal Reprtr 501, (California, 1962). While the appointment selection of a board of directors may be an executive function, (probably also impermissible) the determination of the need for such an authority is legislative.

Because the bill provides that the authority is created by and officers selected by a private body, the regional association, means it could not qualify as a "constituted authority" under IRS proposed regulations entitling it to issue bonds the interest on which is tax exempt. This is because of the lack of either organizational or supervisory control over such an entity by the State. The Internal Revenue Code and regulations also has requirements to qualify as a political subdivision which these authorities might not meet, even if other problems were absent.

In summary, there appear to be some basic constitutional infirmities with the bill. Absent these infirmities, the State could insulate itself from liability just as it has with State created and State organized and controlled authorities. The bill, of course, provides language which would accomplish this.

Your second question dealt with the State's credit rating. This is not a legal question but a financial one. It would depend, I'm certain, on the facts of each case, including number of authorities defaulting and amount of money involved etc. It is certainly conceivable the State's credit rating could be diminished.

TGM:jf

GOVERNMENT  
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March 18, 1977

ALASKA DEPARTMENT OF REVENUE  
TREASURY DIVISION

Mr. James Edenso  
Deputy Commissioner  
State of Alaska  
Department of Revenue  
Pouch SB  
Juneau, Alaska 99810

RE: S.B. No. 39 "An Act Authorizing  
the Creation of Salmon Enhance-  
ment Authorities and Providing  
for an Effective Date"

Dear Jim,

I enclose a copy of a memorandum prepared by Timothy G. Middleton from this office, dealing with the questions of the use of the term "political subdivision" in the creation of the salmon enhancement authorities and the question of the constitutionality of permitting a private body to create a public body or a political subdivision.

As is clear from the memorandum, the infirmity of creating the authority as a "political subdivision" can probably be readily cured by simply using the language from other State public corporation and authority acts creating such bodies "as a public corporation and body politic" or words to that effect. The delegation point is a more substantial one which I think is clear from the memorandum.

Additionally, I would note that the ultimate ability of such an authority to finance hatchery facilities depends upon the validity of its powers pursuant to A.S. 16.10.530 pursuant to which assessments may be levied on the sale of salmon. We have not specifically addressed this question as we assumed it was addressed by the Department of Law at the time of enactment of A.S. 16.10.375 to A.S. 16.10.475. Ultimately, of course, there would have to be bond holder assurance that the assessments agreed to be levied were required to be paid by persons selling salmon.

Beyond this we would suggest that financial advice be taken at an early stage by the appropriate legislative body to determine whether or not there is a reasonable possibility that publically offered bonds by an enhancement authority would be saleable based upon the security of the assessments

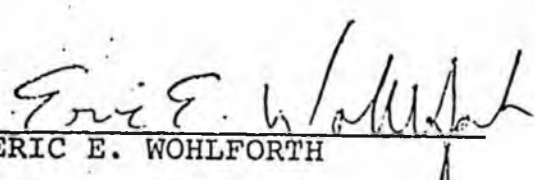
to be levied. Advice of this nature taken from a qualified source at an early stage could help result in the formulation of a statutory scheme. We note that CS House Bill 264 received this morning, deals with the same subject matter. We have not yet had an opportunity to analyze this bill.

I hope these comments are responsive to your letter of inquiry of March 10, 1977, and we are available for further consultation if you wish.

Very truly yours,

WOHLFORTH & FLINT

BY:

  
ERIC E. WOHLFORTH

EEW/cro

Enclosure: One